



Transportation Department

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**BOULDER COUNTY
BOARD OF COUNTY COMMISSIONERS**

June 14, 2012 – 9:00 A.M.

**Hearing Room, Third Floor
Boulder County Courthouse**

PUBLIC HEARING

STAFF PLANNER: Justin Gindlesperger, CFM

Docket DC-12-0002: Text Amendments to Article 4-802 of the Land Use Code .

Request: Proposed Land Use Code amendment to Article 4-802 (“Applicability and Scope of the Site Plan Review Process”) of the Boulder County Land Use Code.

SUMMARY

Following the Fourmile Fire, staff identified a significant potential for the loss of numerous residential bridges and stream crossings due to a fire-related flood event. Currently, the replacement of bridges or other stream crossings within the mapped floodplain must go through a Site Plan Review (SPR) and comply with applicable floodplain development requirements. Compliance with the SPR and applicable floodplain development permitting requirements can be a time consuming process taking several months. It was recognized that affected property owners could not wait for months for the necessary permits to replace their bridge and move back into their home. Therefore an expedited process is needed to replace a bridge that provides access to homes while remaining consistent with the floodplain regulations, goals and objectives.

Two areas have been identified to expedite the bridge replacement permitting process:

1. Current floodplain development regulations require that a bridge must be able to meet specific criteria, including the ability to pass a 100 year flood without impact to neighboring property owners. Demonstrating compliance with this requirement often requires individual modeling and analysis, including engineering analysis and modeling, which can be a time-consuming process. In order to provide an expedited process for replacement of damaged private access structures, the county has analyzed the necessary capacity for each existing structure in applicable drainages necessary to pass the 10 year postburn/100 year pre-burn flows. A property owner may either take advantage of this analysis or complete a new analysis in demonstrating compliance with the floodplain regulations.

2. The proposed amendment will create an expedited process for replacement bridges that are damaged due to a flood event by exempting the replacement of such structures from the SPR process. Replacement bridges, damaged in a flood event, must still meet all other requirements of the Boulder County Land Use Code and the Storm Drainage Criteria Manual. All other replacements, or other construction, within the floodplains of Boulder County are required to meet the provisions of the Boulder County Land Use Code, including the Site Plan Review process.

Proposed Amendment:

Site Plan Review Process for Development - Article 4-802

Discussion: The proposed amendment will eliminate the requirement for Site Plan Review for restoration of bridges and other stream crossings that are damaged due to causes outside the control of the homeowner (i.e. flooding related to the Fourmile Fire). The proposed construction must be commenced within six months. This amendment does not eliminate compliance with other articles of the Land Use Code.

Proposed Text:

Art 4-802(B) 3. b. Replacement of bridges, box culverts or low-water crossings or other structures spanning a creek or other drainage within a mapped floodplain under Article 4-400, may also be exempt from site plan review under this Subsection 3., subject to administrative approval by the County Engineer for compliance with the Boulder County Storm Drainage Criteria Manual. The County Engineer may impose conditions on the construction to assure basic safety, including but not limited to requiring construction of a replacement bridge or crossing that is compliant with the Land Use Code and the Storm Drainage Criteria Manual either as a temporary or permanent replacement structure.

b-c.

TEXT AMENDMENT CRITERIA ANALYSIS

Article 16-100.B. contains the criteria for amending the text of the Land Use Code. Staff finds that these criteria are met in the context of this Docket, as follows:

The existing text is in need of amendment:

Any type of replacement of bridges, or other stream crossings, within the mapped floodplains of Boulder County requires Site Plan Review. The proposed amendment creates an expedited process for the replacement of a bridge damaged in a flood.

The amendment is not contrary to the intent and purpose of this Code:

The proposed amendment is not contrary to the intents and purposes of the Code.

The amendment is in accordance with the Boulder County Comprehensive Plan:

Policy 4.01 in the Natural Hazards element states, "The county should strongly discourage and strictly control land use development from locating in designated floodplains, as identified in the Boulder County Zoning Maps." The proposed amendment does not limit the ability of staff to properly regulate the replacement of bridges, or other structures, that are located within the floodplain overlay district. Replacement structures are required to comply with all articles of the Land Use Code and the Storm Drainage Criteria Manual.

Policy 4.06 in the Natural Hazards element states, "The county will continue to participate and implement the Community Rating System program as part of the National Flood Insurance Program (NFIP)." The proposed amendment was referred to the Colorado Water Conservation Board and the Federal Emergency Management Agency Region VIII to ensure compliance with the NFIP and Colorado Rules and Regulations for Regulatory Floodplains. Neither agency found conflict with the amendment.

REFERRALS AND PUBLIC INVOLVEMENT

The proposed change was referred to the following Boulder County departments: Parks and Open Space, Public Health, Land Use Planning Division, Land Use Building Division, and the County Attorneys. While no formal referral responses have been submitted by these departments, Transportation staff worked closely with the Land Use Department, Open Space Department, County Attorneys, and Public Health and these partners support the proposed change.

The staff report was referred to the Colorado Water Conservation Board and FEMA Region VIII, which encompasses Boulder County.

In addition, the staff report was emailed to the Land Use Code listserv on May 2, 2012 (prior to the Planning Commission public hearing) and again on June 1, 2012 (following the Planning Commission's action). One comment regarding the proposed text amendment was received. Mr. Perry requested that the exemption to Site Plan Review be extended to bridges replaced before a flooding event occurs (email attached).

PLANNING COMMISSION ACTION

Planning Commission, at their May 16, 2012 meeting, heard the proposed docket and made a motion to approve the changes as proposed. No members of the public spoke during the public hearing. Planning Commission recommended approval and certified for action to the Board of County Commissioners this motion unanimously with a vote of 6-0.

STAFF RECOMMENDATION

STAFF RECOMMENDS THAT THE BOARD OF COUNTY COMMISSIONERS APPROVE DOCKET DC-12-0002, TEXT AMENDMENTS TO ARTICLE 4-802 OF THE LAND USE CODE.

ATTACHMENTS

- Text from Land Use Code: Article 4-802(B)
- Public comment: email from Earl Perry

- B. Site plan review shall not be required for:
1. Earthwork that is part of normal agricultural or mining practices
 2. Accessory structures less than 1,000 square feet
 - a. Except in those circumstances in which site plan review is required because of cumulative threshold specified in this section A(2) or A(3)
 - b. Except in a Natural Landmark, a Natural Area, or in the associated 250' buffer as specified in this section A(3) & (4)
 - c. Except on conservation easements held by Boulder County
 3. Restoration of a structure that has been damaged or destroyed by causes outside the control of the property owner or their agent provided the restoration involves the original location, floor area, and height. Such restoration must comply with the current provisions of the Boulder County Land Use Code other than 4-800 (also see Nonconforming Structures & Uses, Article 4-1002(D) and 4-1003(F)).
 - a. Such restoration must be commenced within six months after the date on which the structure was damaged or destroyed, or a latent defect discovered and completed within one year after the date on which the restoration commenced. This limitation may be extended in the case of extenuating circumstances as determined by the Director.
 - b. The provisions of this Section 4-802(B)(3) shall not apply to substantial improvements to structures in the Floodplain Overlay District as provided for in Section 4-400 of this Code.
 4. Development on subdivided land with a final plat approved after February 22, 1994, unless the plat approval otherwise requires Site Plan Review for the lots
 5. Development in approved Neighborhood Conservation Overlay Districts to the extent that the approved Neighborhood Conservation plan covers the relevant site plan review criteria detailed in this Article 4-806
- C. Site plan review may be waived for the following circumstances if the Land Use Director determines that there is no potential for any significant conflict with the criteria listed in Article 4-806 of this Code:
1. Any increase in the total residential floor area to a size less than 125% of the median residential floor area for the defined neighborhood in which the subject parcel is located, up to an increase of 2,000 square feet.
 - a. This provision includes instances in which site plan review would be required because the floor area exceeds the cumulative threshold specified in this section A(2) and B(2)(a)
 2. In the plains, any nonresidential accessory structure less than 5,000 square feet
 3. In the mountainous areas, any nonresidential accessory structure less than 2,000 square feet
 4. Any grading permit involving under 500 cubic yards of earthwork
 5. Any free-standing small wind-powered energy system that meets the height limitations for the zone district.
 6. Any roof-mounted small wind-powered energy system as described in that use classification description (4-516(P)).
 7. Any ground-mounted accessory solar energy system.
- In considering a waiver determination, the Director shall notify adjacent property owners. The Director shall not issue the determination for seven days following such notification and shall consider any comments received by the public. In waiving any requirement for site plan review as authorized under this section 4-802, the Director may impose written terms and conditions on the waiver as may be reasonably necessary to ensure that the regulatory basis for the waiver is not contravened once the subject use or construction is commenced.
- D. If the proposed permit or development requires Special Review, Limited Impact Special Review, Development Plan Review, Historic District Review (Section 4-114), or Subdivision Regulations or PUD Review, Subdivision Exemption, or Exemption Plat Review, the applicable Review process shall substitute for the site plan review process under this section. In any such combined review process, the standards in Section 4-806 shall be applied to the part of the proposal requiring site plan review.

Gindlesperger, Justin

From: Earl Perry <earlperry@comcast.net>
Sent: Tuesday, May 15, 2012 9:38 PM
To: Webster, Dave
Cc: Gindlesperger, Justin; Sanfacon, Garry
Subject: Comment on Proposed Land Use Code Text Amendments: DC-12-0002 Applicability and Scope of the Site Plan Review Process

I support the revision to the site plan review process that exempts replacement of damaged access structures from site plan review. Given the greatly increased discharges to be expected from the 4-mile burn area (see

http://www.dailycamera.com/boulder-county-news/ci_20606999/scientists-use-fourmile-creek-gauge-fire-impact-water?IADID=Search-www.dailycamera.com-www.dailycamera.com which reports up to an 80X increase in streamflow downstream from the burn area) I think the revision does not go far enough to be efficacious. I suggest the following simple addition:

Replacement, enhancement, or improvement of bridges, box culverts or low-water crossings or other structures spanning a creek or other drainage within a mapped floodplain under Article 4-400, may also be exempt from site plan review under this Subsection 3., subject to administrative approval by the County Engineer for compliance with the Boulder County Storm Drainage Criteria Manual.

Landowners have suffered damage precisely because structures sized based on previous analyses - where there even were any previous analyses) were not adequate under the exacerbated flood conditions caused by the burn. It is in their interest to preemptively replace inadequate structures, and to replace already-damaged structures, with access structures that will pass greater discharges than the previous (or existing) structures. A strict reading of the word "replacement" would mean emplacing structures whose design inadequacy is already proven. I suggest that any access structure which lessens inlet control (i.e., provides an upstream opening greater than the existing or damaged structure) is an 'improvement' and should be exempted from the dilatory site plan review process.